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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/464,021	12/15/1999	RALF UWE KRAUKLIS	5181-53800	7049
7590	10/13/2004		EXAMINER	
B NOEL KIVLIN CONLEY ROSE & TAYTON P O BOX 398 AUSTIN, TX 78767			LUU, SY D	
			ART UNIT	PAPER NUMBER
			2174	

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/464,021	KRAUKLIS, RALF UWE
	Examiner Sy D Luu	Art Unit 2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 06 August 2004.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 August 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### **Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### **Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

1. This communication is responsive to the Response to the Final Office Action, filed 8/6/04.
2. Applicant's request for reconsideration of the finality of the rejection of the last Office action brought up an issue which resulted in an additional new rejection under 35 U.S.C. 112, first paragraph. Therefore, the finality of the previous action is withdrawn.
3. Claims 1-19 are pending in this application. Claims 1, 7, 13 and 18 are independent claims. This action is made Final.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. Claims 1-6 and 13-17 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claims 1 and 13 state that "...the list container object is **executable** to specify a corresponding list item data object for each of a plurality of list item renderer objects." However, the term "executable" was not described in the specification. It is noted that only the term "instantiate" was found, e.g. page 4, lines 11-12.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Pogue (PalmPilot: The Ultimate Guide, hereinafter “PalmPilot”).

As per claims 1-4 and 6, Pogue teaches a system for managing and displaying a scalable list of items comprising: a small footprint device (fig. 1.2; page 4), a client program to instantiate a list container object and to add list item data objects thereto, wherein a plurality of list item renderer objects executable to display corresponding list item data objects, and a plurality of objects of the list item renderer object class are instantiated by the list container object, wherein the list item renderer object class implements a “set data” method to set the list item data object corresponding to a list item renderer object and wherein the list container object passes the corresponding list item data objects to the “set data” method for each list item renderer object,

and wherein each of the plurality of list item renderer objects displays the corresponding list item data object in a displayed list row corresponding to the list item renderer object (page 7, *figure on the right side; drop down list showing container objects such as “Main” which contains list renderer objects such as “Address” and “Calc” having list item data objects associated therewith, wherein an associated list item data object such as that being depicted on the right side figure in page 5 when its associated renderer object is executed/run*).

As per claim 5, Pogue teaches the list container object to maintain a start index specifying the first list item data object currently being displayed, wherein in response to user interaction, the list container object updates the start index and specifies an updated list item data object corresponding to each of the plurality of list item renderer objects for display (fig. 1.2, page 4; *inherently, the list container object must update the pointer index to the first list item data object shown on the display when a scrolling operation takes place in order to manage the display of list item data objects properly*).

Claims 7-12 are similar in scope to claims 1-6 respectively, and are therefore rejected under similar rationale.

Claims 13 and 17 combined are similar in scope to claim 1, and are therefore rejected under similar rationale.

Claims 14-16 are similar in scope to claims 2-4 respectively, and are therefore rejected under similar rationale.

Claims 18-19 are similar in scope to claims 1-2 respectively, and are therefore rejected under similar rationale.

***Response to Arguments***

5. Applicants' arguments in the Response filed on 8/6/04 have been fully considered but they are not persuasive.

Applicants argue that claim 1 requires "...the list container object is **executable** to specify a corresponding list item data object for each of a plurality of list item renderer objects", and the applied prior art's directory, being a data structure, is not executable.

The Examiner disagrees for the following reasons.

As pointed out in the 35 U.S.C. 112 rejection above, the term "executable" is not described in the specification. In the specification, it is noted that the list container object may only "**instantiate**" a number of item renderer objects corresponding to list item data objects as described on page 4, lines 11-12 of the specification. Nowhere can the term "executable" be found under the same context as claimed. The terms "executable" and "instantiate" are very different in meaning. By definition, "executable" means pertaining to a program file that can be run, "instantiate" means to create/generate an instance of. Thus, the claims are interpreted by the Examiner as "instantiate" in light of the specification.

### *Conclusion*

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Inquires*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sy Luu whose telephone number is **(703) 305-0409**. The examiner can normally be reached on Monday - Thursday from 7:00 am to 4:30 pm (EST). The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached on (703) 308-0640.

The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



**SY D. LUU  
PRIMARY EXAMINER**